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MEMO ENDORSED

The Hon. James C. Francis IV
United States Magistrate Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1960
New York, New York 10007-1312

Grosso v. The City of New York, et al., 05 CV 5080 (KMK) (JCF)

Dear Judge Francis:

We represent plaintiff, Noël Grosso, in this case, which is one of the consolidated RNC Cases pending before Your Honor and Judge Kenneth M. Karas. We write with respect to a similar issue raised by Jeffrey A. Rothman, Esq., at the July 27, 2007 conference concerning the preclusion of a defense witness's testimony where defendants are unable to identify the particular witness in sufficient time in advance of the witness's court ordered deposition.

Defendants first identified a "white shirted supervisor" as a potential witness in this case -- more than one year ago -- on July 27, 2006 during the deposition of plaintiff's arresting officer, Officer Derrick Baity. See Baity Tr. at 42-43 (attached hereto as Exhibit 1). To date, defendants have failed to identify this individual, notwithstanding that he has been the subject of prior motion practice. See, e.g., June 19, 2007 letter application from R. Finkelstein, attached hereto as Exhibit 2. In our July 2, 2007 letter to Your Honor, a copy of which is attached hereto as Exhibit 3, we requested that defendants be ordered to identify the "white shirted supervisor" by August 24, 2007. On July 5, 2007, Your Honor ordered the "white shirted supervisor"'s deposition for September 27, 2007.

Accordingly, plaintiff respectfully renews her July 2, 2007 application for an Order requiring defendants to identify the "white shirted supervisor" by August 24, 2007 and that if defendants are unable to do so, that defendants be precluded from offering the "white shirted supervisor" as a witness in this case.

Respectfully submitted,

Application denied as
premature. 8/1/07
SO ORDERED

Robert F. Finkelstein

Robert F. Finkelstein (RF-6130)

cc: Jeffrey A. Dougherty, Esq.

VSM J